

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7069

BILL NUMBER: HB 1010

NOTE PREPARED: Jan 26, 2006

BILL AMENDED: Jan 25, 2006

SUBJECT: Eminent Domain.

FIRST AUTHOR: Rep. Wolkins

FIRST SPONSOR: Sen. Bray

BILL STATUS: As Passed House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill requires a condemnor, before proceeding to acquire property by use of eminent domain, to: (1) establish a proposed purchase price; (2) provide the owner with an appraisal or other evidence used to establish the proposed purchase price; and (3) conduct a good faith negotiation with the owner of the property. The bill requires a condemnor, except the Department of Transportation (Department), certain utilities, and certain other persons, to proceed to acquire the property by use of eminent domain not more than two years after the condemnor submits a written acquisition offer to the owner of the property. The bill requires the Department, certain utilities, and certain other persons to initiate eminent domain proceedings not more than six years after the Department, utility, or other person submits a written acquisition offer to the property owner. The bill requires two of the three appraisers appointed under the eminent domain law to be: (1) licensed under the law concerning real estate brokers and salespersons; and (2) residents of Indiana.

The bill extends certain deadlines under the eminent domain law. The bill provides that if a condemnor fails to: (1) take possession of property the condemnor acquired through the use of eminent domain; and (2) adapt the property for the purpose for which it was acquired; not later than six years after the payment of the award or judgment for damages occurs, the condemnor forfeits all rights in the property as if the procedure to take the property had not begun.

The bill establishes procedures for using eminent domain to transfer ownership or control of real property between private persons for uses that are not public uses, including: (1) limiting the use of eminent domain only to certain types of property; (2) requiring that no reasonable alternative to the use of eminent domain exists; (3) requiring that the acquisition of the property will accomplish more than only increasing the property tax

base of a government entity; (4) requiring the payment of a premium to acquire certain types of property; and (5) requiring the condemnor to pay the attorney's fees of certain owners. The bill makes conforming amendments.

The bill specifies that this act applies to all condemnation actions that have not reached a final judgment before the effective date of this act. The bill prohibits a state agency or political subdivision from requiring that a lawfully erected sign be removed or altered as a condition of issuing a permit, license, variance, or other order concerning land use development unless the sign owner is compensated in accordance with the eminent domain statute.

Effective Date: (Amended) Upon passage; July 1, 2006.

Explanation of State Expenditures: (Revised) This bill affects all entities having the power of eminent domain. The fiscal impact of this bill will vary among entities depending on state and local actions.

Additional expenditures could be incurred if an entity must pay more to use a licensed appraiser or real estate broker.

The bill gives an entity six years to take possession of acquired property and adapt it to its intended use, or else it forfeits all rights to the property as if the transaction never occurred. Current law allows an entity five years to take possession of acquired property.

Current statute provides for the condemnor to pay a property owner's additional costs, up to \$2,500, if there is a trial. This bill would require a condemnor to pay a property owner's reasonable attorney's fees up to \$250,000.

This bill could also have a fiscal impact if an entity makes additional expenditures because the types of properties that may be acquired using eminent domain is expanded.

All expenditures would still be subject to appropriation limits and authority.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues:

State Agencies Affected: Certain entities having the ability to exercise the power of eminent domain.

Local Agencies Affected: Certain entities having the ability to exercise the power of eminent domain.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9867.